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June 23, 2008

BY HAND

Honorable Gabriel W. Gorenstein  
United States Magistrate Judge  
Southern District of New York  
500 Pearl St.  
New York, NY 10007

**MEMORANDUM ENDORSED**

Re: Montero v. Gianikos, et al., 07 CV 3228 (VM)(GWG)

Dear Magistrate Judge Gorenstein:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to the defense of the above-referenced matter. This office recently learned that Correction Officers Mazzela and Alvarez may have been served with a copy of the summons and amended complaint in this matter on or about June 2, 2008. I am writing to respectfully request a sixty-day enlargement of time, from June 23, 2008 until August 22, 2008, within which defendants Correction Officer Mazzela and Correction Officer Alvarez may answer or otherwise respond to the amended complaint.<sup>1</sup> I write directly to the Court because plaintiff is currently incarcerated and proceeding pro se in this matter. No previous request for an extension has been made on behalf of defendants.

The amended complaint alleges, inter alia, that plaintiff was subjected to excessive force on or about March 7, 2007, while incarcerated on Rikers Island. In addition to Officers Mazzela and Alvarez, the amended complaint purports to name Correction Officer

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<sup>1</sup> Although this office does not currently represent Correction Officers Mazzela or Alvarez, we respectfully make this request on their behalves in order that their defenses are not jeopardized while representational issues are being resolved.

Gianikos as a defendant. On information and belief, Officer Gianikos has not been served with a copy of the summons and amended complaint in this matter. Before this office can adequately respond to the amended complaint, we will need to conduct an investigation into the facts of the case. The enlargement of time will afford us the opportunity to investigate the matter.

Moreover, the enlargement will allow us to ascertain whether Correction Officers Mazzela and Alvarez have been properly served. If proper service has been effectuated then, pursuant to Section 50-k of the New York General Municipal Law, this office must determine, based on a review of the case, whether we may represent the individual defendants. Officers Mazzela and Alvarez must then decide whether they wish to be represented by this office. If so, we must obtain their written authorization. Only after this procedure has been followed can we determine how to proceed in this case.

In view of the foregoing, it is respectfully requested that the Court grant the within request extending defendants Correction Officer Mazzela and Correction Officer Alvarez's time to answer or otherwise respond to the amended complaint until August 22, 2008.

Thank you for your consideration in this regard.

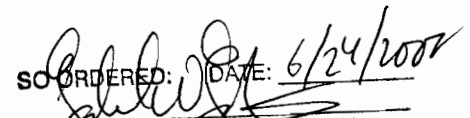
Respectfully submitted,



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*Granted.*

SO ORDERED: DATE: 6/24/2008  
  
GABRIEL W. GORENSTEIN  
UNITED STATES MAGISTRATE JUDGE